

Appl. No. 10/085,486
Amdt. dated October 11, 2004
Reply to Office Action of Jul. 13, 2004

REMARKS

In view of both the amendments presented above and the following discussion, the Applicants submit that none of the claims now pending in the application is obvious under the provisions of 35 USC § 103. Thus, the Applicants believe that all of these claims are now in allowable form.

A Request for Continued Examination is being submitted concurrently herewith.

If the Examiner believes that there are any unresolved issues in any of the claims now pending in the application, the Examiner is urged to telephone Ms. Alberta A. Vitale, Esq. at (203) 469-8097 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Drawing Objections

In the Office action at page 2, paragraph 2, "the drawings are objected to as failing to comply with 37 CFR § 1.84(p) (4) because reference characters '12' and '13' on page 7, lines 20-21 have both been used to designate email server." In Applicants previous response, filed April 27, 2004, Applicants address this objection by amendment to the Specification correcting a typographical error at page 7; Reference numeral "13" was changed to --12--. In light of the previously submitted Specification amendment,

Appl. No. 10/085,486
Amdt. dated October 11, 2004
Reply to Office Action of Jul. 13, 2004

Applicants respectfully submit that the drawing objection has been overcome and request that the objection be withdrawn.

Claim Amendments

No claims have been amended or cancelled in the present response.

Rejections under 35 U.S.C. § 102

The Examiner has rejected claims 1-23 under the provisions of 35 USC § 103 as being obvious over the teachings the Schwartz patent (United States patent 6,243,739 issued to Schwartz et al on June 5, 2001 (hereinafter Schwartz)) taken in view of the Kalliokulju patent (United States patent 6,385,451 issued to Juha Kalliokulju et al on May 7, 2002 (hereinafter Kalliokulju)). This rejection is respectfully traversed.

Claims 1 and 11

Applicants' first address the rejection as it pertains to independent claims 1 and 11.

Claim 1 recites:

"Method of transferring a message stored in a computer arrangement (12) to a mobile device (17(i)), comprising: transmitting an alert message from said computer

Appl. No. 10/085,486
Amdt. dated October 11, 2004
Reply to Office Action of Jul. 13, 2004

arrangement (12) to said mobile device (17(i)) via a first network (19); transmitting said message stored in said computer arrangement (12) to said mobile device (17(i)) upon request from said mobile device (17(i)) via a second network (15); wherein both said first and second networks being parallel mobile networks (15, 19)."

(Emphasis added).

Claim 11 recites:

"Communication system comprising a computer arrangement storing a message in a memory and arranged to transmit said message to a switched-on mobile device (17(i)), said computer arrangement being arranged to: transmitting an alert message from said computer arrangement (12) to said mobile device (17(i)) via a first network (19); transmitting said message from said computer arrangement (12) to said mobile device (17(i)) upon request from said mobile device (17(i)) via a second network (15); wherein said first and second networks are parallel mobile networks (15, 19)."

(Emphasis added).

The Office action states, with respect to both claims 1 and 11 that:

Regarding claim 1, Schwartz discloses a method of transferring a message stored in a computer arrangement or server (Figure 1, 51) to a mobile device (Figure 1, 11), comprising: transmitting an alert message from said computer arrangement to said mobile device via a first mobile network (Figure 1, 1; column 3, lines 42-51; column 10, lines 22-34; column 10, line 56 -

column 11, line 7; column 11, lines 15-23); transmitting said message stored in said computer arrangement (Figure 1, 51) to said mobile device (Figure 1, 11) upon request from said mobile device (see Abstract) via a second mobile network (Figure 1, 40); wherein both said first and second networks belong in part to the same physical network."

Schwartz does not disclose said first and second networks being parallel mobile networks.

Kalliokulju discloses a method of transferring or downloading an email message inherently from a computer arrangement to a mobile device (see Abstract; Table 1, Fourth class), wherein there is a handover of a connection between a first and second mobile communication terminal comprising: a first and a second wireless network; wherein the first wireless network is GSM and the first wireless network comprises means for establishing a connection that is either connection-oriented and/or connectionless (column 1, lines 28-37; column 1, lines 49-51; column 2, lines 1-7). In the second mobile communication network, at least two traffic classes with different transfer properties are defined, and one of them is selected for the data transmission connection of the second mobile communication network (column 9, lines 14-22).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of Schwartz to include first and second networks, that are parallel mobile networks as taught by Kalliokulju for establishing a data transmission would have been lead to make such a modification to utilize one network for notification and the other network for messages.

(Office action, para. 4, pages 2-3 (remarks as to claim 1); and para. 4, page 4 (referring to the remarks of claim 1 as pertaining to claim 11)).

Hence, the Office action argues that Kalliokulju makes it obvious to one of ordinary skill in the art at the time of the invention to modify the method of Schwartz to include first and second networks, that are parallel mobile networks as taught by Kalliokulju for establishing a data transmission connection.

Applicants respectfully disagree with this rejection. Kalliokulju's two networks are not to be used for distinct "parallel" communications such as the communications of Applicants' claimed invention. Instead, in Kalliokulju, a mobile device is at a point in time connected to a first network, when moving to a second network it makes a parallel connection to the second network, and finally the connection with the first network is disconnected (See Kalliokulju where "handing over" is specifically described as "the connection handover refers to a situation when a connection is handed over from a wireless terminal which has a connection to a mobile communication network, to another mobile communication network" at col. 2, lines 38-41).

With Kalliokulju, at the moment the mobile device is connected to the two networks, arrangements are made to

have an as close as possible match of traffic classes of the first and second network. This is explained in Kalliokuljul, in the sections quoted as follows:

The purpose of the present invention is to find a solution e.g to the problem, in a connection handover situation, of how to implement the handover of data transmission connections active in a wireless communication device from one mobile communication network to another mobile communication network in such a way that the quality of service set for the data transmission connection at a time can be maintained as well as possible also in that mobile communication network to which the connection is handed over.

(Kalliokulju, col. 8, lines 9-17, emphasis added.); and further explained as follows:

This TLLI identity is used in the data transmission to define the data transmission connection in which the message in question belongs to. The same TLLI identity can only be used in one data transmission connection at a time. After the connection is terminated, the TLLI identity used in the connection can be given to a new connection which is being established.

(Kalliokulju, col. 5, lines 51-58). This ensures that the quality of service stays at a similar level for the user when his device is connected to the second network in comparison to when it was connected to the first network. Kalliokulju defines "quality of service . . . , for instance, how packets (PDU, Packet Data Units) are processed during transmission in a data transmission

Appl. No. 10/085,486
Amdt. dated October 11, 2004
Reply to Office Action of Jul. 13, 2004

network" (Kalliokulju, col. 10, lines 33-35) and classifies quality of service using a profile such that "the quality of service profile contains five different parameters: service precedence, delay class, reliability, average age bit rate, and maximum bit rate. Service precedence defines a kind of priority for the packets belonging to a certain connection." (Kalliokulju, col. 10, lines 54-58).

Kalliokulju's two parallel networks are of same type, only the quality may differ. The second network is to be used for the same kind of communications as the first network. As previously explained, the second network is merely used to take over the first network (i.e. there is a handover from the first network to the second network).

Thus from the disclosure of Kalliokulju it is not obvious that two parallel networks can be used for distinct parallel communications such as in Applicants' claimed invention. Consequently it is not obvious to apply the teaching of Kalliokulju to the method of Schwartz as argued by the Examiner.

Claims 2-10 and 12-22

For the reasons given above with respect to independent claim 1 and claim 11, Applicants respectfully request that the rejection of claims 2-10, which depend from claim 1, and claims 12-22, which depend from claim 11, be withdrawn.

Claim 23

Claim 23, as amended, recites:

"Mobile device arranged to receive an alert message through a first mobile network (15), to automatically generate a HTTP get message, to transmit the HTTP get message to a computer arrangement (12) storing a message for the mobile device (17(i)) and to receive the message from said computer arrangement (12) as a HTTP reply message through a second mobile network (19)."

(emphasis added)

The Office action, at page 6, states:

Regarding claim 23, Schwartz discloses a mobile device (Figure 1, 11) arranged to receive an alert message through a first mobile network (Figure 1, 1; column 3, lines 42-51, column 10, lines 22-34; column 10, line 56 - column 11, line 7; column 11, lines 15-23), to automatically generate a HTTP get message or HDTTP "Service Request", via computer (Figure 1, 31; column 7, lines 24-57), to transmit the HTTP get message to a computer arrangement or server (Figure 1, 51) storing a message for the mobile device (Figure 1, 11) and to receive the message from said computer arrangement or server (Figure 1, 51) as a HTTP reply message, via computer (Figure 1, 31; column 7, lines 58-66) through a second mobile network, wherein both said first and second networks belong in part to the same physical network..

Appl. No. 10/085,486
Amdt. dated October 11, 2004
Reply to Office Action of Jul. 13, 2004

(Emphasis added to the section of the remarks that differs from the previously applied § 102 rejection in view of Schwartz).

The rejection states claim 23 is obvious over Schwartz in view of Kalliomkulju. However, the above recited remarks of the rejection only articulate reference to Schwartz and do not make any mention of the application of Kalliomkulju to claim 23. Applicants fail to understand how Kalliomkulju in combination with Schwartz teaches claim 23 as purported by the Examiner. Applicants respectfully note that the Examiner failed to "clearly articulate" the rejection in view of Kalliomkulju and that clear articulation is required by MPEP § 706. Because the rejection is not clearly articulated, Applicants' request that it be withdrawn.

Additionally, since the previously applied § 102 rejection under Schwartz was withdrawn, Applicants assume that the Examiner agrees that Schwartz does not teach each and every element of claim 23. With no reference to Kalliomkulju in the § 103 rejection, Applicants assume that Kalliomkulju does not modify Schwartz in any way to teach Applicants' claimed invention. Therefore, Applicants respectfully request that the 35 USC § 103 rejection be withdrawn and claim 23 be allowed.

Non-analogous art/Kalliokulju

Applicants further submit with respect to the application of Kalliokulju to claims 1-23 that Kalliokulju is non-analogous art. Kalliokulju directed to "a method for handing over a connection between a first and a second mobile communication network in a wireless terminal, in which method at least one data transmission connection is established for transmitting information between the wireless terminal and one said mobile communication network, wherein in the first mobile communication network, the connection type is either connection-oriented or connectionless, and in the second mobile communication network, at least two traffic classes with different transfer properties are defined, and one of them is selected for the data transmission connection of the second mobile communication network." (Kalliokulju, Col. 1, lines 1-16).

Generally, this issue of whether art is analogous turns on whether the inventor of the present invention "[w]ould reasonably be motivated to go to the field in which the Examiner found the reference in order to solve the problem confronting the inventor." In Re Oetiker, 24 U.S.P.Q.2d 1443, at 1446 (Fed. Cir. 1992). To qualify as analogous art, a reference must satisfy a two part test and must be: (1) within the inventor's field of endeavor and (2) prudent to the inventor's particular problem. Kalliokulju does not pass the two part test; the reasons are set out as follows:

First, Kalliokulju is not related to the inventors field of endeavor. Kalliokulju relates to hand over between mobile communication networks and more particularly "wherein at least two traffic classes with different transfer properties are defined, and one of them is selected for the data transmission connection of the second mobile communication network" Hence, Kalliokulju is not related to Applicant's field of endeavor, "a method and system for activating a local terminal connectable to a first network". (Specification, page 1, lines 4-5).

Second, Kalliokulju is not pertinent to the inventor's particular problem. Applicant's problem is the need to push messages to a mobile device when a network that the mobile device is connected to does not support push technology. Kalliokulju's problem is not pertinent to Applicants' problem. Kalliokulju addresses "the problem, in a connection handover situation, of how to implement the handover of data transmission connections active in a wireless communication device from one mobile communication network to another mobile communication network in such a way that the quality of service set for the data transmission connection at a time can be maintained as well as possible also in that mobile communication (Kalliokulju, col. 8, lines 9-17, emphasis added.)

For these reasons, Applicants would not have been reasonably motivated to go to the field in which the Examiner found the references in order to solve the problem confronting the Applicants. Since Kalliokulju fails the two-part test, it is nonanalogous art and Applicants

Appl. No. 10/085,486
Amdt. dated October 11, 2004
Reply to Office Action of Jul. 13, 2004

respectfully request that § 103 rejection based upon Schwartz in view of Kalliokulju be withdrawn and claims 1-23 be allowed.

Conclusion

Thus, the Applicants submit that none of the claims, presently in the application, is obvious under the provisions of 35 USC § 103.

Consequently, the Applicants believe that all these claims are presently in condition for allowance. Accordingly, both reconsideration of this application and its swift passage to issue are earnestly solicited.

Respectfully submitted,

October 11, 2004


Peter L. Michaelson
Peter L. Michaelson, Attorney
Customer No. 007265
Reg. No. 30,090
(732) 530-6671

MICHAELSON & ASSOCIATES
Counselors at Law
Parkway 109 Office Center
328 Newman Springs Road
P.O. Box 8489
Red Bank, New Jersey 07701